

1 Right? They would -- most likely in Texas they would have
2 a Lone Star card. That's our safety net for the poor to
3 provide them a means to exist. I understand to get a Lone
4 Star card you have to prove your identity some way. I'm
5 not sure about the process, about how you do that, but
6 they do have to prove their identity to qualify for a Lone
7 Star card. And if you don't have a bank account, assuming
8 you get a check of some kind, either a government check or
9 a paycheck, in order to cash it don't you have to have
10 some kind of proof of ID in order to cash a check?

11 A. Well, based on practical experiences, there are
12 people who co-sign their checks. I don't quite know if
13 (inaudible) might not have ID and how they cash their
14 checks.

15 Q. So, they find someone can prove their identity
16 and they co-sign, is that what you're saying?

17 A. I'm not quite sure how it works place to place,
18 but I know that one process that may occur for the poor
19 for cashing a check is that they may sign their name and
20 then give it to someone else -- they have a bank account
21 or something -- and they sign their name under that first
22 name and then that person cashes the check.

23 Q. I've just been trying to figure out -- prove
24 their identity in some way, and I feel like if we managed
25 to come up with a bill that we could support and we



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1 provide free ID for people who don't have them, I think
2 we're going to be doing them a huge favor because they
3 will be able to move around in our society and do things
4 that perhaps they haven't had access to before. It's just
5 something that's so needed for every one of our citizens.

6 A. I can say that if, you know, the State of Texas
7 wanted to do a free ID, that's one thing. But to link it
8 to a fundamental right, (inaudible) sort of
9 considerations.

10 So, what it does is it says -- if I were to
11 agree with this idea that if everyone had ID it would help
12 but what it does is it says, "Well, if you don't have it,
13 now you can't exercise your fundamental right," and that's
14 the problem with the photo identification, it relates to
15 all other aspects of life or saying, "Well, DPS offices
16 and they can, you know, get free ID." But the DPS
17 offices, their locations -- thinking about whether or not
18 people would have the access to exercise a fundamental
19 right and there was a reason why, you know, the Supreme
20 Court long ago said that voting is a fundamental right
21 such that if you can't exercise the right to vote then
22 you're not only taken out of participating in the jury
23 system and other aspects, but even in the laws that you're
24 governed under. So, it needs to be as inclusive as
25 possible.



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1 Q. I agree it should be inclusive. I just feel like
2 it's hard to get around the voter having some kind of
3 responsibility in this situation, taking on some
4 responsibility for proving your identity as far as, you
5 know, getting to the polls, for one thing. They managed
6 to do that. I just -- still it's not only a privilege,
7 but you do have some responsibility in exercising it.
8 Thanks.

9 JENIGH GARRETT: Thank, you ma'am. I do
10 agree that (inaudible).

11 CHAIRMAN SMITH: Representative Heflin,
12 real quick.

13 Q. (By Representative Heflin) Ms. Garrett, I have 16
14 counties and several of my counties, the DPS is only
15 open -- one of them for three hours a week and four of
16 them for, like, four hours a week and it's hit or miss
17 which day you get. So, it's a difficult situation.

18 Q. (By Chairman Smith) And let me just say, you
19 know, the reason why I'm not enchanted with the Indiana
20 law is because I agree with some of the concerns that
21 you're expressing.

22 What I have trouble with is applying those
23 concerns to the Senate bill, which does not require photo
24 identification. I'm not really interested in -- is, you
25 know, how many people you know that -- that -- we all



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1 agree -- I don't know that we've determined the precise
2 small percentage of people that do not have photo
3 identification, and I think it's just unimaginable that
4 anybody would argue -- and I don't think you have -- that
5 to provide that small group of people with a photo
6 identification would not -- aside from the election
7 process -- would be of some general benefit to their
8 ability to function in our society. But the -- you know,
9 what I'm interested in is what is the evidence about the
10 extent to which that small group of people who do not
11 already have photo identification also do not have in
12 addition to their voter registration card one of these
13 many documents, including Medicaid and Medicare cards,
14 envelopes from a governmental entity that are, you know,
15 et cetera. That's -- that's really what would describe
16 the burden, if any, that this legislation would place on
17 our constituents, which is dramatically different than the
18 burden that is -- that is placed on constituents that do
19 not have photo identification documents in the State of
20 Indiana. And I haven't heard a lot of evidence -- and
21 that's because I don't imagine that it exists -- that
22 there are a large number of Texans that do not have access
23 to one of these non-photo identification documents in
24 addition to their voter registration card among the very
25 tiny proportion of our constituents that do not have



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1 already photo identification documents.

2 So, you know, appreciate the fact that I am
3 very sensitive to the policy concerns that you're raising
4 about the fact that every voter, even ones who do not have
5 a photo identification, have a right, a Constitutional
6 right to vote that is not to be deprived. And even though
7 they are a minority, they are important and they have that
8 right and it's our job to make sure that there's nothing
9 that we do that places any unreasonable barrier in their
10 way, which is why I think the Senate adopted the version
11 of this legislation that it did. There's some things I
12 hope we're going to be able to do on the House side to
13 make it even more sensitive to those concerns. But, you
14 know, I just -- a lot of what we're hearing are legitimate
15 criticisms, in my opinion -- and some of my Republican
16 friends on the panel may not agree with me on that -- are
17 some legitimate criticisms of the law insofar as it
18 applies to Indiana, but it simply has no relationship or
19 bearing to what we're proposing here or what the Senate
20 has proposed here. Representative Anchia?

21 Q. (By Representative Anchia) Can I thank you again
22 for being here today? Are you aware of the case of Bessie
23 Jenkins Foster from Tarrant County?

24 A. No, sir.

25 Q. This was recently reported in the Fort Worth Star



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Telegram. She's a 98-year-old African-American woman who has tried three times to get an ID and all three times she's been turned away from DPS offices in Tarrant County. She was asked for a birth certificate. She brought a copy because the original was destroyed in a fire at the county courthouse in Walker County. She brought her expired license -- she doesn't drive anymore at 98 years old -- and she brought her former photo military identification, Social Security card, and other documents and was turned away on three separate occasions from the Department of Public Safety in Tarrant County.

Two questions. Does this surprise you? Do you believe this is an isolated case, and/or do you think it happens regularly, especially for African-Americans?

A. First, I would say that it does not surprise me. This is a difficult burden for me to overcome, but particularly African-Americans, given -- especially older African-Americans, given the circumstances surrounding their birth, often at home without birth certificates, et cetera. Also, even though African-Americans do have birth certificates, they have typos on the spellings on their birth certificates. Let's say in Illinois, there was a Julia Murray who was looking for her birth certificate. She was about 80 something years old now, and at the time she was looking for her birth certificate she spelled her



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1 name M-U-R-R-A-Y her entire life but when she couldn't
2 find her birth certificate, finally the person who was
3 administrating the system there just happened to type it
4 in with a different spelling and found out it was
5 M-U-R-R-E-Y.

6 In addition to that, you have circumstances
7 where African-Americans were not issued birth
8 certificates. Again, like I said, because of the
9 hospitals and discrimination. One problem, I think, with
10 photo ID laws is that it starts five years ago but the
11 history of our country doesn't start that close to today.

12 CHAIRMAN SMITH: Members of the committee,
13 are you through?

14 SPEAKER: I just want to make a quick
15 comment on what she was just saying. My own family, if
16 you go past Betty Brown's neck of the woods and keep on
17 going down towards Marshall, Texas, where my dad's side of
18 the family is from before they migrated to Fort Worth, you
19 know, the people that are down there, well, I thought
20 you-all (inaudible) because of what you're saying. Half
21 of my relatives spell their name differently, and it's
22 just -- what you're saying. It's spelled differently
23 because a lot of those folks -- none of my folks from
24 Marshall were born in the hospital, I don't believe. They
25 were all born in the woods. So, that's the reality.



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1 That's what -- you know, I'm here to shed light on that
2 because I think it sort of gives -- some of the members of
3 the committee are like, "Well, why can't anybody do that?
4 I can do that. Why can't they go and do it, too?" It
5 gives them a glimpse into a different segment of society
6 that they probably haven't dealt with on a very personal
7 basis before.

8 Q. (By Alma Allen) I have my birth certificate right
9 here. Most people do not even recognize this as a birth
10 certificate, but my birth certificate was issued to Alma
11 Alabee Oliver. My maiden name. If I was to present that
12 today, I may or may not be able to vote. My name is
13 spelled wrong, and it doesn't have Allen on here anywhere.
14 That might be a problem. I'm just throwing that out there
15 as a problem.

16 CHAIRMAN SMITH: This is sort of a question
17 that is currently faced by poll workers on a regular basis
18 and somebody else would have to come up, perhaps Ms. McGee
19 in the Secretary of State's office to answer questions
20 about how they deal with that question, but there's not
21 anything in this legislation that would alter that issue,
22 change that issue in any way, or alter a standard by which
23 those decisions are made in terms of --

24 SPEAKER: Well, that's not true,
25 Mr. Chairman, because it's an identity requirement. If



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1 she provided that piece of ID along with another piece of
2 non-photo ID, you would give discretion to a poll worker
3 to say, "That's not you. I can't verify your identity
4 from the proof presented."

5 CHAIRMAN SMITH: How does that change the
6 current law?

7 SPEAKER: Because it's a presentment
8 standard and not a --

9 CHAIRMAN SMITH: You're talking about the
10 Senate bill?

11 SPEAKER: Yes, the bill we're talking about
12 today.

13 ALMA ALLEN: My voter registration has no
14 Oliver on it at all. So, they would be matching this with
15 that. I would like to say one other thing. (Inaudible)
16 it might be a good idea when registering a voter that we
17 have voter registration with your picture on it. Why
18 can't we have voter registration with a picture?

19 CHAIRMAN SMITH: The challenge is that you
20 can currently register by mail. You just have to fill out
21 the card. I don't think you guys -- I don't think anybody
22 on this panel wants to alter the ability of a voter to
23 simply register by mail from home. You wouldn't want to
24 do that, would you? And -- and so, you know, that's the
25 challenge because they are not going anywhere to register.



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1 They are doing it from home.

2 ALMA ALLEN: You could grandfather, the
3 rest of us who have been registered 99 years. Ongoing, we
4 could start with picture ID, change the format all
5 together.

6 CHAIRMAN SMITH: The challenge is how you
7 do that while still allowing people to register from their
8 own living room.

9 ALMA ALLEN: Now, if they can give you an
10 ID card --

11 CHAIRMAN SMITH: If we want to require
12 people to go to some particular location in order to
13 register to vote, then we could probably make a photograph
14 a part of that process, but I don't think you would want
15 me to do that, nor would she.

16 ALMA ALLEN: When I got my passport, I
17 didn't go anywhere. I got my --

18 CHAIRMAN SMITH: Well, we could require
19 that as a part of the registration process, that you also
20 provide a photograph of yourself.

21 ALMA ALLEN: You could go on-line, you can
22 send your picture. Somebody calls me and asks me for a
23 resume or a picture of myself, bang.

24 CHAIRMAN SMITH: Would you support that
25 requiring people to submit a picture of them self along



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1 with their voter registration card?

2 JENIGH GARRETT: Even for a passport
3 photograph, you have to pay for a passport photograph.

4 ALMA ALLEN: That's an example of how it's
5 not that difficult to get a picture to wherever you want
6 to get a picture to.

7 JENIGH GARRETT: I think that that's
8 something that I would need to analyze further. My
9 initial reaction is no only because -- there's federal law
10 that governs the ability to register to vote in a lot of
11 different ways.

12 CHAIRMAN SMITH: I just want to mention
13 that Representative Anchia brought up an article in the
14 Fort Worth Star Telegram and I remember having read it
15 and -- and, again, I think that article is an excellent
16 representation of the kinds of difficulties that can be
17 created by the Indiana voter registration, voter ID law,
18 but in the article itself which is trying to get this
19 identification document, it imitates that she submitted
20 her photo military identification, her Social Security
21 card, and other documents.

22 So, embedded within the article is proof
23 that this woman has the necessary documents in her
24 possession to vote under the Texas Senate bill.

25 SPEAKER: Except that they were expired,



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1 Mr. Chairman.

2 CHAIRMAN SMITH: The Social Security card
3 was expired?

4 SPEAKER: No, sir, but the photo ID was.
5 It said she had to present two forms of non.

6 CHAIRMAN SMITH: The voter registration
7 card and the Social Security card is certainly sufficient.

8 SPEAKER: The other point I think this
9 article makes is that you need ID to get ID. So, if she
10 just wanted to get photo ID so she would only have to
11 present one form of ID at the polls is what this -- what
12 this bill calls for as the standard, the main standard,
13 the it would have been very difficult for her to comply
14 with that before the election. I think that's what this
15 case illustrates.

16 CHAIRMAN SMITH: Right.

17 SPEAKER: It takes ID to get ID.

18 CHAIRMAN SMITH: If you want the ID that
19 lets you vote with one piece of ID, there are problems.
20 I'll grant you that in this instance apparently this woman
21 was having some difficulty getting a photo ID, but I'm
22 simply making the point which I think is important that it
23 also proves that she had the documentation that would
24 allow her to vote under the non-photo identification
25 alternative that was present from the Senate bill and will



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presumably also be present in the House bill.

SPEAKER: And all she has to do is hope that she has it with her when she goes to vote.

CHAIRMAN SMITH: What people do when they understand what the requirements are, and that is comply because of a document that are readily available in her possession. Representative Linda Harper-Brown?

Q. (By Representative Harper-Brown) Thank you, Mr. Chairman. Ms. Garrett, thank you so much for being here today. I want to tell you that I have always been impressed with the work the NAACP has done in trying to help minorities understand the various laws and to work to improve the standing of minorities in this state and in the nation. And I wanted to ask you: When you work on these issues, do you work on them in multiple states or are you with the national group or do you work on election laws in other states or are you just focusing or working here in Texas?

A. Just to clarify, I'm with the NAACP Legal Defense and Education Fund the LDF. So, we are a national organization. We work on voting right laws throughout the country.

Q. Okay. Did you work on the Georgia law?

A. The NAACP (inaudible) in Georgia.

Q. When did it pass, or when did it go into effect?



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1 A. I think it was 2005, but it was right around the
2 time when I started. The litigation was ongoing when I
3 actually arrived.

4 Q. We keep talking about Indiana. So, you didn't
5 actually work in Georgia, then, on that issue or had just
6 started?

7 A. I had just started so I kind of jumped in, but I
8 never physically participated in the litigation.

9 Q. The -- I was looking back at their statistics and
10 in their statistics that are on the Secretary of State's
11 website, in 2000 67 percent of female blacks voted,
12 registered voters, and 57 percent of the males. In 2004,
13 70 percent of the female blacks voted and 66 percent of
14 the males. In 2008, though, after this was implemented --
15 and I notice on the NAACP had a majority had an
16 announcement. In 2008, though, 80 percent of black
17 females voted and 71 percent of black males and that was
18 after the law was in effect and the Supreme Court ruling
19 had come down on this -- on this law.

20 And so, it looks like the numbers have
21 increased in the number of people that have voted even
22 with this ID law in place. And what the news release says
23 here is that the president of the Georgia NAACP had said
24 that although he's not happy about it, once that the --
25 the ruling had come down from the U.S. Supreme Court on



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1 voter ID that he would be -- that his group would get out
2 and work now to educate people on -- around the state on
3 how to understand the rules.

4 So, I just wondered if you knew, with you
5 being with the legal defense fund, but I just wondered if
6 the NAACP is going to do the same thing if this bill
7 passes here in the State of Texas.

8 A. I would leave that to the state (inaudible)
9 testify today on that issue, but I would like to make two
10 points.

11 First, it's my understanding that -- again,
12 a clarification of what happens here in Texas -- that the
13 NAACP gives its participation percentages based on actual
14 turnout versus actually casting a ballot. I think that's
15 a distinction that has to be considered because we heard a
16 lot today about provisional ballots, provisional ballot
17 rejection rates, provisional ballot for a variety of
18 reasons and it's unclear whether that was taken into
19 consideration with the president's statement there, but
20 it's just in case you have to clarify whether or whether
21 or not it was relying on that as (inaudible)
22 participation. Also taking into account the particular
23 circumstances surrounding the 2008 election into
24 consideration. And I just said at least -- although I
25 wasn't on the ground in Georgia, I was on the ground in



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1 Indiana -- the saturation not just from the state but from
2 the political parties in that particular election and that
3 an election is not just a general election, but it's a
4 school board election and it's the county clerk election.
5 I'm not sure what you-all have in Texas or not. It goes
6 all the way down to these very, very local elections that
7 impact on a local level how people live. So, I would want
8 to take all that into consideration.

9 Q. Well, I believe that this was actually in May of
10 2008 when the president announced that, and I don't know
11 when they hold their other elections in Georgia, but I
12 believe from his press release talking about trying to
13 educate all the voters in the state for all elections.

14 A. (Inaudible).

15 CHAIRMAN SMITH: Members, we are three
16 minutes passed the 30-minute allotted time for the record.

17 Q. (By Representative Bohac) I wanted to say,
18 Jenigh, that your testimony has been outstanding.

19 A. Thank you.

20 Q. I actually could listen to you all day. You've
21 done a great job.

22 A. Thank you.

23 Q. I did hear something earlier that I was going to
24 try to get your take on, and it was from one of the
25 witnesses -- and this will be my only question for you.



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1 One of the witnesses before referenced the
2 former Mayor of Atlanta, Andrew Young, and said that he
3 believed that photo ID could actually be used to elevate a
4 society and that a photo ID can be used as a positive
5 effort to help lift people in society. And I wanted to
6 see your take -- that was kind of an interesting take on
7 this whole photo ID argument, and I wanted to try and get
8 your take on his opinion.

9 A. First, I'm not sure what context -- I come from a
10 legal background, so I would probably have to look at the
11 context of that. I think that we did talk a little bit
12 about how -- and I think Representative Brown raised the
13 issue of photo ID and what photo IDs could do for society
14 in general. However, I connected it to the right to vote
15 is where that aspiration kind of runs afoul of the
16 Constitutional spirit.

17 CHAIRMAN SMITH: Any other questions,
18 members? Thank you very much, Ms. Garrett.

19 JENIGH GARRETT: Thank you, Chairman.

20 CHAIRMAN SMITH: At this time, the chair
21 calls Wesley Tailor. He's the Director of Elections
22 Division, Georgia Secretary of State, testifying -- he's
23 neutral on the bill. Again, for the record -- I apologize
24 for being redundant -- please state your name and who you
25 represent.



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1 WESLEY TAILOR: Yes, sir. I've had the
2 pleasure of listening to many people do it before. My
3 name is Wesley Tailor, and I am the elections division
4 director for the Secretary of State of Georgia.

5 Thank you-all for allowing me to address
6 you today. I'm basically going to just discuss Georgia's
7 experience with photo ID. I became the elections director
8 for the State of Georgia in April of last year, thrown
9 into the fire, if you will, right before an election. And
10 fortunately, before that I served as general counsel to
11 the Secretary of State since March of 2007.

12 So, I will be focusing my discussion on
13 Georgia's most recent experience with photo ID, although I
14 will say that Georgia has had over a decade of experience
15 with some form of voter ID, much like what Texas has now
16 and what Texas will have in the future.

17 We enacted our current photo ID legislation
18 in 2006. Currently we you allow six forms of photo
19 identification to be used at the polls -- a driver's
20 license, which actually can be either expired or valid
21 driver's license, a U.S. passport, a government employee
22 photo ID, a valid federal or state government photo ID, a
23 military photo ID, or a travel photo ID.

24 I will tell you about the -- we've had
25 about 16 elections since the implementation of this law in



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1 August of 2007. In Georgia we like to have elections, and
2 we've had many of them. We've cast about 9 and a half
3 million ballots with the photo ID in place and my office
4 has received no complaints that anyone has been
5 disenfranchised or turned away from the polls because they
6 lacked a photo ID, and I think that's very telling based
7 on some of the discussions that have been had previously
8 today.

9 If a voter shows up at the polls, of
10 course, without a photo ID, they may cast a provisional
11 ballot and that will be counted if that individual shows
12 back up with a photo ID within two days following an
13 election.

14 In 2006 I heard some issues -- I'm trying
15 not to just talk about what everybody has talked about
16 previously. In 2006, the DOJ, Department of Justice, did
17 pre-clear Georgia's photo ID law, much like it did in 1997
18 when the Department of Justice under then President Bill
19 Clinton pre-cleared Georgia's voter ID law which, as I
20 said, is very similar to Texas' current voter ID law and
21 the one being discussed here today. Of course, the U.S.
22 Supreme Court has addressed all of the Constitutional
23 arguments in last year's Indiana case.

24 Georgia has had its own experience with
25 lawsuits over voter ID and photo ID. I will tell you from



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1 that experience I know there's been some discussion of who
2 hadn't had a photo ID or who might not have a photo ID
3 that they can use. We have had some of the most prominent
4 lawyers in the State of Georgia bring lawsuits against the
5 state making those same arguments, and yet still we have
6 not seen one individual who can actually say that they
7 have been adversely impacted by this law or that they
8 would have an undue burden placed upon them.

9 We have -- I heard -- I'm going to address
10 a couple of the arguments very quickly. The one that I've
11 heard is in-person voter fraud doesn't occur and it's not
12 an issue. I will tell you that as an elections
13 administrator I take my responsibility with respect to
14 voting very seriously. I agree with anybody who has said
15 and everybody who has said it here today that voting is
16 the fundamental right and the foundation of our country
17 and Republic, that it's the core -- and I believe all of
18 us here take that at face value, that voting is the core
19 right upon which all other rights are based.

20 So, with respect to whether somebody can
21 vote or whether somebody else's vote is cancelled out
22 because of voter fraud, those are equal in my mind as an
23 elections administrator and you must look at them equally
24 and address both to the extent that you possibly can to
25 make sure that one doesn't cancel out the other or prevent



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1 somebody who otherwise is perfectly able to vote to be
2 able to cast their legitimate vote.

3 When you say that voter fraud doesn't
4 occur, Georgia has had its unfortunate share of election
5 fraud in the past. As you heard, the nature of in-person
6 voter fraud makes it very difficult to deter and detect,
7 which does require some proactive measures in dealing with
8 voter fraud. We've enforced our voter laws since August
9 of 2007 following a three-day bench trial by a Jimmy
10 Carter appointee in federal district court in Georgia, and
11 one of the interesting things that Judge Murphy stated in
12 his order which allowed Georgia to implement its photo ID
13 laws in August is that in a previous order the court
14 speculated that the photo ID requirement probably was not
15 even rationally related to the asserted justification of
16 preventing voter fraud. That speculation, however, is not
17 binding on the court and, frankly, proved to be
18 inaccurate, which I find -- having litigated cases
19 before -- fascinating to have a judge actually write that
20 in an order, that he was wrong early on.

21 Argument 2 is that an undue burden is
22 placed on numerous voters. As I've said, after four years
23 of lawsuits we haven't seen a single individual that has
24 come forward. And, in fact, Judge Murphy again in an
25 order wrote, "Although plaintiffs claim to know people who



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1 claim that they lack photo ID, plaintiffs have failed to
2 identify those individuals. The failure to identify those
3 individuals is particularly acute in light of plaintiff's
4 contention that a large number of Georgia voters lack
5 acceptable photo ID."

6 With respect to the facts and statistics, I
7 know you've heard or talked much about that. Looking at
8 the 2008 general election, we had a 75 percent turnout for
9 active voters. We have about 5.8 million registered
10 voters total in the State of Georgia, and we had
11 3.9 million votes cast and that was about 700,000 more
12 votes cast in the previous largest election we ever saw in
13 the State of Georgia.

14 The interesting part about that is that
15 Georgia allows for no excuse in-person absentee voting,
16 allows for in-person voting on election day, and it allows
17 for no excuse voting by mail. We saw 92 percent in the
18 general election choose to cast their vote in person. So,
19 only 8 percent -- in fact, less than 8 percent chose to
20 vote by mail. And that was true for the runoff, as well,
21 because we did have a runoff. We received about 80,000
22 more new voter registration applications in 2008 as
23 compared to 2004 when we did not have photo ID in place.
24 In the presidential preference primary we also saw a
25 historic turnout of more than 1 million voters than we had



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1 ever had in a presidential preference primary before and
2 that, again, with photo ID in place.

3 With respect to minority, elderly, and
4 female voters which I have heard some people bringing up
5 those are the individuals who might be most affected by
6 voter ID or a photo ID requirement, if you compare 2004 to
7 2008, Georgia saw a -- with respect to Hispanic Latino
8 voters, we saw 140 percent increase in turnout in 2008 and
9 that was just compared to a population increase of about
10 71 percent during 2008. African-American vote increased
11 by 42 percent. The white vote increased by about
12 8 percent, and the 65 and older increased by about
13 24 percent all, again, with photo ID requirement in place.

14 One last thing that I will point out is
15 that I heard earlier that photo ID is described to favor
16 potentially one party over another. In Georgia, the
17 voters did cast their votes in the presidential race for
18 Senator McCain. However, our sitting incumbent, Senator
19 Wright, was forced into a runoff in a very close race with
20 his Democratic opponent very close behind. So, we have
21 not seen that be an issue either. I'll be happy to
22 address --

23 Q. (By Chairman Smith) I just want to make sure.
24 You said your program was very similar to what they
25 propose in Texas. Do you require a photo ID?



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1 A. Yes, sir. I was talking about our previous voter
2 ID that we've had in place since '97.

3 Q. Currently you do require photo ID?

4 A. We require photo ID.

5 Q. If you don't have a photo ID, then you must cast
6 a provisional ballot?

7 A. Yes, sir.

8 Q. There's no alternative in your law for providing
9 non-photographic identification documents; is that
10 correct?

11 A. That is correct.

12 Q. Okay. And you talked about the fact with all
13 these ballots cast there's no complaints.

14 Do you have any way to quantify on a
15 statewide level how many provisional ballots are being
16 cast and the process by which you determine whether those
17 votes count or do not count?

18 A. Yes, sir, I can. I can talk about the
19 presidential preference primary, and I can talk about the
20 general election, whatever you prefer.

21 Q. Refer to both.

22 A. Well, I can talk about both. Let me start out
23 with the presidential preference primary. We had about
24 7541 total provisional ballots cast. Of those, 409 --

25 Q. 7500?



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1 A. 7500, yes, sir. Of those, 409 were because the
2 individual lacked a photo ID.

3 Q. Okay.

4 A. That's about point 00019 percent of the total
5 votes cast in the presidential preference primary.

6 Q. In the recent Obama elections?

7 A. Yes, sir, in 2008.

8 Q. And 7500 provisional ballots out of how many
9 total votes cast?

10 A. We had 2.2 million.

11 Q. What's the total population of the state?

12 A. Over 9 million.

13 Q. You said how many were provisional due to lack of
14 ID?

15 A. 409.

16 Q. What was the result of those ballots? Were any
17 of those counted?

18 A. Yes, sir. 155 returned.

19 Q. 155 were not counted?

20 A. No, were counted.

21 Q. And what's the standard that you use to determine
22 which ones count?

23 A. Well, you have to show back up with a valid ID
24 within two days following an election.

25 Q. And then the rest were not counted because they



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1 chose not to return?

2 A. Correct.

3 Q. So, by requiring people to show back up, you've
4 got something approaching approximately a third of those
5 counting?

6 A. That's right.

7 Q. You would agree with me that as Florida does it
8 where the vote counts automatically unless sort of a board
9 determines by majority vote that the signatures are not of
10 the same person flips that so that a much greater
11 percentage of those provisional ballots will count if you
12 opted for that procedure? You may not know.

13 A. I don't know. I couldn't extrapolate, but it
14 sounded like theirs did, but he didn't even have the
15 numbers for me.

16 CHAIRMAN SMITH: Okay. Representative --

17 A. I'm sorry. Did you want to know about the
18 general election, too?

19 Q. (By Chairman Smith) Yeah, go ahead.

20 A. In the general election we had 3.9 million total
21 votes cast. We had 17,366 provisional ballots cast total.
22 Of those, 1181 were because the individual did not have
23 photo ID.

24 Q. How many of those were counted?

25 A. 308.



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1 Q. 308 counted?

2 A. Yes, sir. And since you had asked previously,
3 the number of provisional ballots, that's about point
4 0003 percent of the total votes cast.

5 Q. That was not counted?

6 A. That were just provisional ballots.

7 Q. But the number that was not counted would be
8 something smaller than that?

9 A. Yes.

10 Q. And the numbers you gave us earlier -- that was
11 the general election. The numbers you gave us earlier
12 were what?

13 A. The presidential preference primary.

14 CHAIRMAN SMITH: Yes, Representative Bohac?

15 Q. (By Representative Bohac) Mr. Tailor, I find your
16 testimony as equally compelling as Jenigh's. This is
17 almost a perfect scientific experiment that you're
18 bringing before this body. It really is. So, thank you
19 for coming here.

20 Really three questions for you. Number
21 one, did you just testify that 92 percent of Georgians
22 vote in person or voted in person even though you have
23 what we would consider vote laws that are pretty liberal?

24 A. Yes.

25 Q. 92 percent voted in person?



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1 A. Yes.

2 Q. So, a little -- so, these provisional ballot
3 numbers that you gave us that were cast are really
4 interesting in light of the sheer number of people that
5 voted in person.

6 Here's my second question. What do you do
7 in case of a name mismatch like we heard Dr. Allen testify
8 a moment ago that her license may say Alma misspelled, but
9 on the other hand she goes by Dr. Alma Allen.

10 How would you-all treat that in Georgia?

11 A. Well, we actually have change of name forms that
12 people use when they come to the poll. So, they will
13 actually do a change of name form even when they are
14 voting. That's one of the things that folks do quite
15 often, actually. I will say also in this past election,
16 especially in the general election, there was a
17 significant voter registration drive, so to speak. We
18 handed out out of our office about 2 million voter
19 registration applications, and what we found is
20 percentage-wise the new voter registration applications
21 didn't increase but we did get a lot of folks changing --
22 updating their information, changing their names, changing
23 their addresses, whatever needed to occur to update their
24 information.

25 Q. So, in this case, would that vote count in case



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1 of a name mismatch?

2 A. Sure. I mean, you could -- obviously it would be
3 whether the individual can be matched and whether the
4 individual could be verified, but most of the time I would
5 see no issue with that.

6 Q. And then, thirdly, you said of the 12 elections
7 that you-all have been through -- that you-all have held
8 there have been no reports, not one of disenfranchisement
9 as a result of Georgia's voter ID law?

10 A. No, sir. If I said 12, I misspoke. We've
11 actually had 16. We just had one in March.

12 Q. I would say, Mr. Taylor, there's hysteria on both
13 sides of this issue and your testimony for me has been
14 very mainstream because we looked at it more
15 scientifically and tried to remove the emotion.

16 So, I want to thank you for coming to our
17 state and testifying. I've never heard you before, I've
18 never seen you before, and your testimony has been truly
19 compelling and thank you for that.

20 A. Thank you.

21 Q. (By Representative Bonnen) Just a couple quick
22 questions. I was using some Georgia numbers earlier and
23 one of the comments or retorts -- I think it was a fair
24 one -- well, it's fair in that I think we would agree
25 there are a number of reasons why voter turnout goes up or



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1 down. But the interesting question left to ponder the
2 witness left was, yes, I know turnout was up and I know
3 the African-American population went way up in Georgia and
4 all, but had voter ID not existed, we only know how much
5 further it would've even gone up. I'm asking you somewhat
6 to speculate, but I actually think based on the numbers
7 you may not have to.

8 Do you have any information or any fact
9 basis or anything you can share with us that would
10 indicate one direction or the other as to whether voter ID
11 had an impact on reducing the turnout not only of
12 African-Americans but of any voters in Georgia or not?
13 Other than the obvious data of the actual turnout itself.

14 A. Right. I'm an elections administrator. I'm not
15 a mathematician. I haven't studied any of that, but I
16 will just say that I don't know whether photo ID increases
17 voter turnout. I just don't know that to be the case; but
18 the nice part in administering the law that was passed by
19 the legislature and signed into law by the governor is
20 that I haven't seen any evidence that it has been an undue
21 burden on anybody to comply. That's the one thing I can
22 say.

23 Q. Do the numbers make sense to you in Georgia in
24 that -- well, you know them, so I don't need to repeat to
25 you, but the significant increase in the African-American



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1 vote in the '08 election.

2 Is there any reason for you to speculate
3 that had voter ID not existed that it would have been an
4 even greater increase?

5 A. Based on the numbers that have been talked about
6 today, I just don't know how. I mean, we had -- as I say,
7 the overall voter turnout was about 75 percent of the
8 active registered voters. So, with the numbers that I had
9 heard earlier, I haven't looked at specifically for
10 African-Americans or Hispanic Latino or anything. But
11 just based on those, I don't know how, especially if you
12 look at historic turnout numbers.

13 Q. Right. What is the average historic turnout in
14 Georgia?

15 A. It's right in that mid Seventies.

16 Q. Is it?

17 A. Yes, sir. We're talking about general elections.

18 REPRESENTATIVE BOHAC: Right. Thank you
19 very much. Appreciate your time.

20 CHAIRMAN SMITH: Any other questions?
21 Representative Anchia?

22 Q. (By Representative Anchia) Thank you, Mr. Tailor.
23 Thank you for being here today. I wanted to talk to you a
24 little bit about the numbers that you gave us and have you
25 articulate. To make it easy, let's just talk about the



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1 general election numbers.

2 A. Yes, sir.

3 Q. 3.9 -- and I want to make sure I wrote them down
4 correctly. 3.9 million voters in the general in Georgia?

5 A. Right.

6 Q. 17,366 provisionals?

7 A. Yes.

8 Q. Of those provisionals, 1,181 were for no ID?

9 A. Correct.

10 Q. Of those, 308 were counted because people were
11 able to come back; is that right?

12 A. Correct. I don't know about "were able," but
13 they decided to come back, yes.

14 Q. Okay. In some cases, they may not have been able
15 during the two-day period. Right?

16 A. We just don't know.

17 Q. Have you reached out to any of the people who
18 didn't have ID and didn't come back within the two-day
19 period? Have you done anything systematic?

20 A. Actually what we did is before the general
21 election, in getting ready for the general election and
22 every election before that when photo ID went into effect,
23 anybody who voted a provisional ballot and didn't come
24 back, we actually mailed them a letter that said, "Hey,
25 not sure why you didn't, but just so you know, photo ID is



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1 required. Here's how you can get one," and we did an
2 active reach-out to those folks.

3 Q. Is that a requirement that you send them that
4 letter?

5 A. No.

6 Q. Thank you. After any of the elections have you
7 studied the reasons why people may not have come back?

8 A. No, sir, we have not.

9 Q. You send them a letter, and I think it's good to
10 inform them of the requirement and use it as an education
11 opportunity, but you haven't looked at the reasons why in
12 this case maybe 800 people -- a little more than 800
13 people didn't come back?

14 A. Right.

15 Q. Okay. Okay. Would you characterize any of those
16 800 people as disenfranchised?

17 A. No, sir.

18 Q. Why not?

19 A. Well, disenfranchising -- in fact, I've heard
20 that word passed around. That's actually to deprive the
21 rights of citizenship, especially the right to vote, and
22 none of these individuals were deprived the right to vote.
23 In fact, they were able to cast a vote on election day and
24 they had to ability to either come back or to not come
25 back. They chose one way or the other. And also in



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Georgia, don't forget, we have the absolute right to cast a mail-in ballot with no photo ID requirement. So, no, these individuals were not disenfranchised.

Q. But their vote was not counted. So, you had about 800 or so people whose vote was not counted because they didn't return to present some form of ID?

A. Yes.

Q. Otherwise, they had no other infirmity than that. Right? They were citizens of the United States, they were validly registered. They had no ID. Is that the fact pattern that we're looking at there? They didn't have the requisite ID, let's say that, to be fair.

A. They did not have the requisite ID. Whether they were eligible, all of the other issues, I just don't know at this point in time, but I do know that was the issue.

Q. Would you think that the law would disenfranchise people -- if the Georgia law did not have the two-day return opportunity, would you then call it disenfranchisement if people were not able to come back and remedy that situation?

A. Well, again, it depends on --

Q. In this case, 1181. If Georgia did not have the ability to come back, a two-day window, would you say that those people that were disenfranchised, that 1181?

A. Well, except for provisional ballots are a



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1 federal requirement. So, I don't think there's any way
2 that you couldn't allow somebody to vote provisionally in
3 a federal election.

4 Q. But the fact that their ballots were not counted
5 as regular ballots if they did not have the opportunity to
6 return, would you consider that disenfranchisement?

7 A. In the -- I'll have to think about that,
8 actually, because I just haven't given that hypothetical
9 consideration.

10 Are you taking away the no excuse absentee
11 voting by mail?

12 Q. Yes. Let's say that's also, as well.

13 A. I just have to think about that.

14 Q. So, no -- so, you can't vote absentee, no excuse,
15 and you don't have the ability to come back.

16 A. I guess I have a problem -- let me ask you this.
17 I'm trying to figure out what the idea of
18 disenfranchisement and how far you go with it because
19 voting at a precinct, if somebody can't get to the
20 precinct and can't vote absentee, that's a requirement,
21 and would that be considered disenfranchisement?

22 Q. Certainly their vote didn't cast. I would argue
23 that we have this inalienable right and we have -- we
24 should have the ability to cast that vote and every
25 obstacle or combination of obstacles that limits that



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1 increases or decreases the potential for
2 disenfranchisement. I wouldn't say it's one thing.
3 Specifically things in combination. And our policy
4 balance here is, you know, access to the franchise. This
5 is articulated in Carter/Ford and Carter/Baker versus
6 potential obstacles for voting. That's the balance. And
7 on balance I would say the more requirements that you put
8 out there, the less opportunity an individual is going to
9 have to exercise the franchise. In the past it was a poll
10 tax or it was white-only elections. Those were all
11 obstacles that limited the free exercise of
12 African-Americans or literacy tests for Hispanics, for
13 example, from exercising their franchise. I would say
14 that goes toward disenfranchising, for example.

15 A. I will agree with you on those, absolutely.

16 Q. So, the reason I asked you about the no excuse
17 election plus the no ability to come back -- your
18 testimony is that you're in favor of the Frazier bill,
19 correct?

20 A. Actually, I'm really here just to testify about
21 Georgia's experience with photo ID.

22 Q. Is it on the bill or in favor of the bill?

23 A. It's neutral.

24 Q. Okay. Good. I'm glad to hear that because the
25 Frazier bill doesn't include any opportunity to come back,



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1 right, and we also in Texas don't have a no excuse mail-in
2 ballot policy. So, I mean, in that sense it is -- it
3 would be difficult because once you cast a provisional
4 under the Frazier bill there's no ability to come back and
5 remedy it is my understanding. So, I'm glad we were able
6 to flesh that piece out.

7 Can i talk to you a little bit about how
8 you run your elections?

9 A. Go for it. I'm sorry. Yes.

10 Q. No, no. I really appreciate the casual colloquy.
11 Among lawyers it's okay, I think. One little, quick
12 thing.

13 You talked about the fact that we dispensed
14 with all the Constitutional arguments on voter ID. Is
15 that accurate?

16 A. The facial --

17 Q. As lawyers, it's important to distinguish. I
18 think somebody else said it today. (Inaudible) ruled
19 Constitutional, but there is a difference between facial
20 and misapplied. Right?

21 A. Of course.

22 Q. And the Supreme Court has left open the question
23 whether these photo ID laws are Constitutional as applied?

24 A. Sure.

25 Q. Okay.



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1 A. I'm sorry. And that's why it's important, at
2 least for me, that we've had 16 elections and haven't had
3 anybody come forward. So, at least on the facial
4 challenge that's been dealt with hopefully as applied at
5 least thus far in the State of Georgia. We've had a good
6 experience.

7 Q. And we might differ in our interpretation of the
8 800 or so people that didn't have their provisional vote
9 counted. It's clearly your testimony that those folks are
10 not disenfranchised. I might take a different approach
11 and that's where we might disagree, but what I really want
12 to get at is stuff that we'd agree on. The spirit of
13 Carter/Baker and its predecessor Carter/Ford was to,
14 again, balance the franchise with access to ID -- excuse
15 me -- security with access to the franchise?

16 A. Yes, sir.

17 Q. So, how much did Georgia spend to get people free
18 identification? Do you recall the numbers on that?

19 A. I know generally, yes, sir. Except for on the
20 identification itself, it was -- I'm not sure exactly the
21 number on the identification itself, but on education
22 efforts I know we've spent over a million dollars.

23 Q. Okay. Is that per anum, or was that up front?

24 A. No, sir. That was a specific allocation by the
25 legislature, the Georgia legislature, to educate the



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1 population about the requirements.

2 Q. And what about -- sorry. Texas has 25 million
3 people. How big is Georgia?

4 A. A little over 9.

5 Q. Was that just for voter education? Did you spend
6 any other amount on poll worker training?

7 A. Well, poll workers actually have to be trained
8 before every election in Georgia, which means they have a
9 lot of training. Everybody can tell from the number of
10 elections. So, that's built in. We also have --

11 Q. And what's that on an annual basis from general
12 revenue?

13 A. The state doesn't spend -- that's all done at the
14 county level.

15 Q. That's all at the county? The state doesn't
16 subsidize the county at all? It doesn't give them
17 elections money? Do you know how much that is if you
18 aggregate the counties?

19 A. I do not. I will say, though, that on the state
20 level we did produce -- we did actually develop a photo
21 identification on-line training course that poll workers
22 had to take and were required to take in order to become
23 familiar with photo ID requirements.

24 Q. And you also have mobile buses that travel the
25 state providing IDs; is that right? Did you have mobile



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1 ID centers?

2 A. In theory. I'm not sure that actually ever
3 materialized.

4 Q. Never materialized?

5 A. Yes, sir.

6 Q. Because that's one of the suggestions. It's not
7 a recommendation, but they gave -- there's a for instance
8 in Carter/Baker that says you can do these mobile units
9 and I was wondering if you-all included that in your
10 outreach to folks to get them IDs.

11 A. We did not, no, sir.

12 Q. Okay. Let's see. How much did you spend in
13 voter registration? I'm talking three pockets of money.
14 First one was getting people IDs, the second one was to
15 train folks, and the third bucket of money would be just
16 on voter registration, getting new people registered in
17 the system.

18 How much do you spend on an annual basis
19 for that?

20 A. Well, we spend millions on the voter registration
21 system itself. If you're talking about the voter
22 registration system --

23 Q. I'm talking about outreach, voter registration.
24 How much do you-all spend per anum on that?

25 A. That would have been included in some of the



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1 photo ID. We would have been talking about get
2 registered, get your photo ID.

3 Q. Okay. So, you didn't aggregate the cost of
4 getting people free ID, for example, from the bucket of
5 money that is for voter education from the bucket of money
6 that is outreach to get people registered?

7 A. I just don't know it off the top of my head.

8 Q. Okay. Is there a tension between no excuse
9 mail-in ballot and having a photo ID at the polls from a
10 philosophical perspective? You talked about your
11 experience with voter fraud generally.

12 Was that experience with mail-in ballot
13 fraud?

14 A. For the most part.

15 Q. Okay. For the most part?

16 A. In my experience -- I will be honest. As an
17 administrator, I haven't seen a whole lot of fraud yet, of
18 course. It's been in place -- I've been here doing this
19 since photo ID went into place.

20 Q. So, you've spent all your time with photo ID?

21 A. Yes.

22 Q. Most of it, based on your experience, has been in
23 mail-in ballot fraud?

24 A. The cases I have seen have been prior to this
25 administration and to the current Secretary of State and



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1 my role. So -- but I have seen some mail-in ballot fraud.
2 Yes, sir. In fact, we had a case that we just tried last
3 week.

4 Q. What are some of the things that you do in your
5 mail-in ballot system to avoid fraud? What are some of
6 the systemic controls that you have in place?

7 A. Sure. Actually, we did this a bit piecemeal, as
8 well. Photo ID was passed in 2006. It was enjoined by
9 the same federal judge that I quoted earlier twice. So,
10 he had enjoined it until 2007 when the trial happened, but
11 in the meantime, working with the state legislature, we
12 passed a triple signature check on absentee ballots,
13 mail-in absentee ballots. So, registrars have to actually
14 compare the signature on the voter registration
15 application to the signature on the absentee ballot
16 application to the signature on the absentee ballot
17 itself. So, you have to actually check to make sure all
18 of those signatures --

19 Q. Three times?

20 A. Yes, sir. We also made absentee ballot fraud a
21 felony. Surprisingly enough -- you may or may not find
22 this surprising. Prior to the current Secretary of State
23 coming into office, mail-in voter fraud was a misdemeanor.
24 In-person voter fraud was a felony. So, voter fraud is
25 voter fraud regardless of whether it occurs by mail or in



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1 person. So, we increased that to felony status and also
2 we vigorously investigate any allegations of fraud.

3 Q. Okay. This is my last question. I want to make
4 sure you're testifying on the bill, not in favor of the
5 bill as a resource witness, correct?

6 A. Yes, sir.

7 Q. And none of your testimony speaks to any study
8 that you've done as to the Texas system or how it might
9 impact Latinos or African-Americans in Texas, correct?

10 A. I can only give you my experience in Georgia.

11 REPRESENTATIVE ANCHIA: Thank you. I
12 appreciate your testimony.

13 CHAIRMAN SMITH: Representative Brown?

14 Q. (By Representative Harper-Brown) I'll be very,
15 very brief. You haven't really addressed the
16 pre-clearance required -- provides -- required by the
17 Department of Justice.

18 A. Yes, ma'am.

19 Q. And I think you might address the fact that Texas
20 is pretty much in the same category that Georgia is. So,
21 rather than compare us to Indiana, it would make more
22 sense for us to compare our experience to yours in that we
23 don't have (inaudible), as well.

24 Would you like to address that, what you
25 had to do?



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1 A. I would be happy to. We did have to submit this.
2 Georgia is subject to Section 5 of the Voting Rights Act,
3 unfortunately, for its past practices before 1965. So,
4 yes, we do have to pre-clear all changes in voting
5 statutes, voting laws. We did pre-clear the current photo
6 ID law in 2006, and we submitted the normal submission --
7 the attorney general's office actually makes those
8 submissions, but -- but it was just the normal
9 information. We've now had, I want to say, experience
10 with photo ID and we haven't seen any issues with
11 application thus far on -- to show any retrogressive
12 effect or undue burden on minorities in the state of
13 Georgia. Like I said before, back in 1997 we passed a
14 voter ID requirement that is similar to Texas', and that
15 was passed by a Democratic legislature with a Democrat as
16 the governor of the State of Georgia and it was
17 pre-cleared by the then President Clinton's Department of
18 Justice.

19 Q. How long was it from the time that you -- the AG
20 submitted the pre-clearance material and the time the bill
21 could actually begin?

22 A. Well, we had the -- we also had to contend with
23 numerous lawsuits that were filed and the facial
24 challenges to the law. And so, Judge Murphy actually
25 enjoined the law in the meantime. So, it never went into



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1 effect actually until August of 2007, but the
2 pre-clearance side of things didn't take any longer than
3 the normal time period, I believe, which is about 60 days
4 unless they ask for additional information, which would
5 then increase it to another 60 days after the State of
6 Texas answers the questions or sent their information.

7 Q. So, then, after that time period is up, you're
8 kind of on probation for a while? Or when you said that
9 "we had no problems," is there a period of time that you
10 have to prove yourself?

11 A. No, ma'am.

12 Q. Okay.

13 A. They either interpose an objection at the
14 beginning, or they do not. "They" being the Department of
15 Justice.

16 REPRESENTATIVE HARPER-BROWN: Thank you.

17 Q. (By Chairman Smith) Just to be clear as a
18 follow-up there, how long was it between the point in time
19 when the bill passed and the point in time the bill went
20 into effect?

21 A. The legislature in Georgia is in January to
22 usually April, and it would have passed in 2006 and the
23 injunctions lasted until August of 2007.

24 Q. Okay. So, it passed from when -- do you know
25 when in 2006, somewhere --



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1 A. April is a good --

2 Q. April of '06 to August of '07?

3 A. Yes.

4 Q. Okay. And -- and that was as a result of the
5 pre-clearance time through the Clinton Justice Departments
6 and -- is that --

7 A. No, sir.

8 Q. Did you not say Clinton?

9 A. That was for '97. This one went with Bush
10 Department of Justice.

11 Q. That would make sense. Were you referring to
12 something that did happen during the Clinton --

13 A. Yes, sir. That was the previous -- we used to
14 require 14 forms of ID starting in 1997.

15 Q. Do you have any knowledge yourself about how that
16 time -- if you choose -- might have been -- the state can
17 choose to have us pre-cleared through the Washington, D.C.
18 Court of Appeals?

19 A. The district court.

20 Q. The district court?

21 A. I believe so.

22 Q. Okay. Do you know if it takes longer for that
23 process, or is it presumably the same period of time?

24 A. I would be speculating and talking on hearsay on
25 that.



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1 SPEAKER: Mr. Chair, we have a resource
2 witness that could speak to that. Toby Moore, I think,
3 was with DOJ.

4 Q. (By Chairman Smith) I just want to make a map
5 point here. We've heard testimony before from the state
6 of Florida. You're providing testimony for the State of
7 Georgia. Both of these have card -- mandatory photo ID
8 requirements.

9 Is it fair to presume in your judgment that
10 if Georgia, instead of implementing a hard photo
11 identification requirement had implemented a requirement
12 like the one proposed in Centerville where it provides a
13 photo identification or your voter registration card and
14 one of these lists of non-photo identification documents
15 that the number of -- of provisional ballots would be less
16 with that alternative non-photo requirement available to
17 you than it would be with a hard photo requirement?

18 A. I don't know that that's true.

19 Q. Okay.

20 A. I really don't. Like I say, we've had some form
21 of voter ID requirement in place since '97, and I can't go
22 back and look at the provisional statistics from previous
23 elections because we started to collect it and require the
24 counties to actually report that to the Secretary of
25 State, but I don't know that that's correct. I imagine,



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1 you know -- I just don't know.

2 Q. So, you don't necessarily presume by providing
3 simply an additional alternative that is not available in
4 your law that that reduces the number of provisional
5 ballots?

6 A. It certainly would make sense, but I --

7 Q. You don't know?

8 A. No, sir.

9 Q. Okay. What we do know is that you provided us
10 with statistics indicated that in your system 900 votes
11 didn't count with 3.9 million cast. Under Florida, there
12 were 8.3 million cast and there were 394 that did not
13 count. So, they had twice as many more voters and the
14 number of votes was reduced by somewhere between --
15 approximately 40 percent. Instead of 900, it's 394
16 presumably because of the difference in the way that they
17 handle their provisional ballots in terms of how it is
18 determined whether it counts or whether it doesn't count.

19 So, if your vote total of 3.9 million had
20 been more like Florida's vote total of 8.3 million, then
21 roughly presumably if the same proportions apply, you
22 would have had about 2,000 voters not counted under a -- a
23 provisional ballot system which does not allow a similar
24 signature to make the vote automatically count, which you
25 require for the voter to do something affirmatively within



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1 a finite period of time. Right?

2 SPEAKER: Object as compound. I'm sorry.

3 Q. (By Chairman Smith) I would think that if your
4 voter turnout had increased to 8.3 million that the number
5 of votes not counted would have increased proportionately
6 to approximately 2,000.

7 A. I would hate -- this is why I was hoping to stick
8 with what we had and what I saw in Georgia and what we've
9 experienced. I would hate to speculate as to what would
10 happen. Sure, you can do the math and extrapolate and
11 multiply it by two, but I can only tell you what we
12 experienced.

13 Q. Okay. I just wanted to indicate that on the
14 record that if you do that math and you extrapolate it out
15 and you assume if you double the turnout with Florida the
16 number of votes that did not count would double, then
17 roughly the difference between the number of votes that
18 are not counted in Georgia with the same turnout as
19 Florida with the same turnout drops from about 2,000 to
20 394 on 8.3 million cast because of the difference in the
21 way that they handle the provisional ballots. I'm simply
22 trying to point out there's evidence -- there's a
23 substantial difference in the number of votes that are not
24 counted if you handle those signatures one way, which is
25 the point made in the U.S. Supreme Court and why those



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1 three more liberal justices expressed a strong preference
2 for the Florida law in terms of how they handle the
3 provisional ballot.

4 A. Actually, we had one of those dissenting judges
5 point to Georgia's law as actually one that he could stand
6 behind, as well.

7 Q. I don't recall the basis of that.

8 A. It was because of how we provide for provisional
9 ballots and how we count those, as well.

10 Q. He liked yours much better than he liked
11 Indiana's?

12 A. Apparently.

13 CHAIRMAN SMITH: All right. Okay.
14 Representative Heflin?

15 Q. (By Representative Heflin) Just so I'm clear.
16 So, in '97 you did a voter identification law and then in
17 '05, '06 at some point in time you did a photo ID law that
18 was enacted in '07?

19 A. Correct.

20 Q. That's what you've been operating under for the
21 last 16 elections. Why do you have so many elections? I
22 just had to ask.

23 A. I asked that, too. I guess we just like
24 elections.

25 Q. Okay. And so, you've been there since '07?



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1 A. Yes, sir.

2 Q. Based on what you know -- this may have been
3 already asked and answered. So, as far as instances of
4 voter -- allegations of voter fraud or voter
5 impersonation, you've basically been clear. Is that what
6 you would say?

7 A. As far as I know, I'm not aware of any. I will
8 say that our enforcement side is actually done by an
9 inspector general who is also under the Secretary of
10 State, but I do the administration of the elections and
11 she does the enforcement of the election law. So, if
12 there are cases independent that she is aware of, she may
13 be aware of something that I am not.

14 Q. One of the provisions you did do is you raised it
15 to a felony grade offense on mail-in ballots?

16 A. Yes, sir.

17 REPRESENTATIVE HEFLIN: Thank you.

18 CHAIRMAN SMITH: Just for the record, we're
19 four minutes over. Take that into consideration, if you
20 would, Representative Bohac.

21 Q. (By Representative Bohac) This will be very
22 quick. Do you have early voting in person?

23 A. Yes, sir.

24 Q. How many days does that last?

25 A. 45.



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1 Q. 45 days?

2 A. Yes, sir. It's actually the exact same -- and
3 this is something that we enacted last year, actually, or
4 the legislature enacted last year. It corresponds with
5 the number of days for mail-in ballots.

6 Q. I've been trying to get to this 92 percent
7 figure. So, I've been trying to get around to it, and I
8 think that probably helped me understand this 92 percent
9 figure because I've just been shell shocked by that
10 figure.

11 I want to talk to you now real quick about
12 the -- what level of a felony is the ballot by mail?

13 A. You're talking about a felony grade? Well, in
14 Georgia we don't do felony grades for the most part. You
15 have a specified sentence in terms of money or years, but
16 a felony is a felony.

17 Q. Tell me what that is in Georgia, if you know.
18 How many days in jail?

19 A. I think it's five years and \$100,000, along those
20 lines. Up to.

21 Q. Okay. And then finally -- and this is the last
22 portion of my question.

23 Prior to moving to voter ID, you still had
24 provisional ballots that was in effect prior to moving
25 photo ID, correct?



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1 A. Yes.

2 Q. How many provisional ballots as a percent of the
3 total ballots cast -- I know the hour is late.

4 What I'm trying to get at, is your
5 provisional ballots roughly the same as they were before
6 photo ID when they were just merely voter ID as opposed to
7 photo ID or do you know the answer?

8 A. I knew from the start of your question you were
9 going to ask me that, and I don't know. I'm sorry. I
10 don't know what off the top of my head. I will say that
11 most of our statistics are right up on our website, on the
12 Secretary of State's website in Georgia, but I don't know
13 that.

14 Q. Thank you. I've been to Peachtree City in
15 Georgia many, many times. I love your state. So, thank
16 you.

17 CHAIRMAN SMITH: Representative Heflin?

18 Q. (By Representative Heflin) One more quick
19 question. I have to ask this. I'll spend an extra minute
20 tonight. So, in the last two years you've had 720 days of
21 early voting going on. So, the last two years you've
22 basically been early voting all but 10 days?

23 A. Well, I say 45. It's 45 for general elections
24 and general primaries. Special elections is a shorter
25 period of time. But for the general elections and



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1 generally primaries, that's 45 days.

2 Q. I like early voting.

3 A. Our voters do, too. I do, too. We had more than
4 half of our votes cast early.

5 REPRESENTATIVE HEFLIN: Thank you.

6 Q. (By Chairman Smith) Is there any way for you to
7 describe for us the extent of the locations, the early
8 voting locations throughout the state?

9 A. Sure. Well, Georgia is like Texas. We like our
10 counties. I think we're the second most after Texas with
11 159. All of those counties have a voter registration
12 office or an elections office. So, each county would have
13 at least one location which would be the election office
14 or registrar's office. In our major metropolitan
15 counties, they could have as many as seven early voting
16 centers interspersed around the county. Many with five,
17 four, three.

18 Q. What are the hours -- do you know what hours the
19 polls are open?

20 A. In Georgia and I think in Texas elections are
21 administered actually by the county elections officials,
22 especially the general election. So, they get to set
23 their hours that they are open, but they can vary from
24 normal business -- they have to be open at least normal
25 business hours of the county. Some counties, the week



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1 before an election or even the two weeks before will open
2 up their offices, say, 7:00 to 7:00 or 8:00 to 7:00, what
3 have you.

4 Q. Up to the county?

5 A. Yes, sir.

6 CHAIRMAN SMITH: Any other questions,
7 members? Thank you very much. Appreciate it.

8 WESLEY TAILOR: Appreciate it.

9 (End of Volume 2.)
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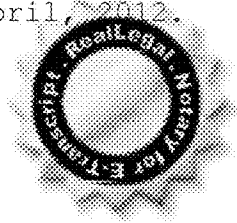
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